

Appl. No. 09/862,993
Amd dated December 9, 2004
Reply to Office Action of October 14, 2004

REMARKS

This amendment is responsive to the Office Action dated October 22, 2003. Applicants have amended claims 24 and 30. Claims 24-35 are pending.

Claim Rejections Under 35 U.S.C. § 101

In the Office Action, the Examiner rejected claims 24-35 under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Applicants do not acquiesce in the claim rejections under 35 U.S.C. § 101. Applicants have previously argued that the claimed subject matter is patentable under 35 U.S.C. § 101, and Applicants incorporate those arguments herein.

Nevertheless, in the interest of expediting prosecution, Applicants have amended claims 24 and 30 to recite "executing a software application on a computer to automatically aggregate the contracts." Support for utilization of software executing on a computer to automatically aggregate the contracts can be found throughout the specification. For example, see page 13 line 2 through page 14, line 4. As another example, page 8 of the present application states:

Automated aggregation is generally more efficient. Automated aggregation makes the frequent or even infrequent accumulation of small quantity individual contracts readily efficient. The contracts are therefore more manageable. The result is that parties can transact in practical quantities relative to trading increments, and the quantities can be updated at frequencies ranging from fractions of an hour to weeks or months. By aggregating, the buyer can enhance revenue and achieve hedge protection on a practical level.

Accordingly, it may be desirable to receive and aggregate quantities automatically, for example, using a computer network such as the internet. Private wide area networks and the use of intranet servers also may be used to aggregate quantities. In each case, the intermediary may load quantities into an aggregation engine running on a local workstation or a remote server¹.

¹ Present application at page 8, ll. 1-12 (emphasis added).

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The Examiner has suggested that relating at least one method step to a computer would overcome the rejection under 35 U.S.C. § 101. Applicants' amendments to claims 24 and 30 follow the Examiner's suggestion.

Claims 25-29 depend on claim 24, and recite all the elements of claim 24. Claims 25-29 therefore relate the claimed method and overcome the rejection under 35 U.S.C. § 101. Similarly, claims 31-35 depend on claim 30, and recite all the elements of claim 30. Because claim 30, as amended, overcomes the rejection under 35 U.S.C. § 101, claims 31-35 are also in condition for allowance.

Applicant points out that the Examiner has already conducted a substantive evaluation of claims 24-35 in view of 35 U.S.C. §§ 102 and 103, and has determined that claims 24-35 recite allowable subject matter. In an Office Action mailed October 22, 2003, the Examiner stated: "Claims 24-35 are allowable over the prior art."

For these reasons, the amendments to claims 24 and 30 place claims 24-35 in condition for allowance, and respectfully request withdrawal of the rejection under 35 U.S.C. §§ 102 and 103 and prompt allowance of the claims.

Rejection for Obviousness-type Double Patenting

The Examiner had previously rejected claims 24-35 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6-11 and 17-28 of copending Application No. 09/862,992. All claims of copending Application No. 09/862,992 presently stand rejected, so obviousness-type double patenting presents no barrier to allowance of claims 24-35.

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CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

December 9, 2004
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